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AUG 31 2006

OFFICE OF PETITIONS

In re Application of :
Richard K. Williams et al :
Application No. 10/766,774 : DECISION GRANTING PETITION
Filed: January 28, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. AAT007-3C US :
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This is a decision on the petition, filed August 18, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED** as moot.

A review of the file record reflects the following:

- ◆ A Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed on January 26, 2006. The issue and publication fees were due on or before April 26, 2006.
- ◆ On April 19, 2006, the Office mailed out a Notice of Drawing Inconsistency with Specification, stating that "Figures 4D & 170 are listed in the Brief Description of the Drawings in the specification but not contained in the Drawings."
- ◆ On April 19, 2006, prior to the due date for payment of the issue fee, a Request for Continued Examination (RCE) and submission in accordance with 37 CFR 1.114 (an Information Disclosure Statement) were submitted.
- ◆ On May 11, 2006, an amendment and drawings were received.
- ◆ On June 26, 2006, Publishing Division mailed out a communication entitled "Response to Rule 312 Communication," stating that the amendment filed on May 11, 2006 was entered.
- ◆ On July 17, 2006, after the due date for payment of the issue and publication fees, the Office received the \$1,400 issue fee and \$300 publication fee.
- ◆ Thereafter, on August 18, 2006, the instant petition to withdraw from issue, RCE and Supplemental IDS were filed.

The filing of the instant petition to withdraw from issue and second RCE were unnecessary as the RCE filed on April 19, 2006 was effective to withdraw this application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. Note MPEP §§ 706.07(h)(IX) and 1308.

In view of the above, the \$790 fee submitted for the second RCE on August 18, 2006, as well as the \$130 petition fee, are unnecessary and will be refunded to petitioner's credit card in due course.

Additionally, as the issue fee was not submitted prior to the due date for payment therefor and further was unnecessary in view of the previous filing on April 19, 2006 of an RCE, this fee will also will be refunded to petitioner's credit card. If the application is again found to contain allowable subject matter, petitioner is advised that the issue fee must be paid prior to the due date to avoid the abandonment of the application.

This application is being referred to Technology Center AU 2822 for processing the RCE filed on April 19, 2006 and for taking action on the amendments and IDS, filed April 19, 2006, May 11, 2006, and August 18, 2006.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions